



November 30, 2011

Mrs. Jocelyn G. Boyd
Chief Clerk / Administrator
Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, SC 29210

RE: Docket No. 2011-158-E

Dear Mrs. Boyd:

Attached for filing in the above-referenced docket, on behalf of Progress Energy Carolinas, Inc. and Duke Energy Carolinas, LLC, are the rebuttal testimonies for witnesses William D. Johnson, James E. Rogers, Lynn Good, Dr. Joseph P. Kalt, and Alexander J. Weintraub.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kendal C. Bowman', written over a horizontal line.

Kendal C. Bowman
Associate General Counsel
Progress Energy Carolinas, Inc.

KCB:mhm

Attachments

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**BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA**

DOCKET NO. 2011-158-E

In the Matter of

Application of Duke Energy Carolinas, LLC and)
Progress Energy Carolinas, Inc. to Engage in a)
Business Combination Transaction)

**CERTIFICATE
OF SERVICE**

I, Kendal C. Bowman, hereby certify that a copy of the rebuttal testimonies for witnesses William D. Johnson, James E. Rogers, Lynn Good, Dr. Joseph P. Kalt, and Alexander J. Weintraub have been served on all parties of record either by hand delivery, e-mail, or by depositing said copy in the United States mail, postage prepaid, addressed as follows:

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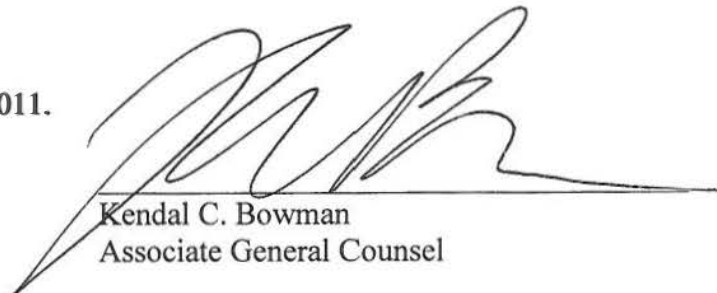
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This 30th day of November, 2011.



Kendal C. Bowman
Associate General Counsel

1 Staff witness Jonathan Falk's recommendation that the Commission approve the joint
2 dispatch agreement ("JDA") for a one year trial period.

3 **Q. WHAT ARE YOUR COMMENTS REGARDING CITY OF ORANGEBURG**
4 **WITNESS BAGWELL?**

5 A. The City of Orangeburg's basic concern relates to a decision by the North Carolina
6 Utilities Commission regarding the allocation of electric utility costs between retail and
7 wholesale customers for the purposes of establishing North Carolina retail electric rates.
8 This allocation process may impact the electric rates a North Carolina electric utility is
9 willing to offer in the long term wholesale market. Orangeburg is a purchaser of
10 electricity in the wholesale market. Orangeburg believes the North Carolina cost
11 allocation methodology harms Orangeburg's opportunities to purchase electricity in the
12 wholesale market at favorable rates; thus, it opposes this cost allocation methodology.
13 The proposed JDA is consistent with the existing North Carolina retail/wholesale cost
14 allocation methodology.

15 **Q. WILL A DECISION BY THE COMMISSION CHANGE THE NORTH**
16 **CAROLINA UTILITIES COMMISSION'S COST ALLOCATION**
17 **METHODOLOGY?**

18 A. No. The cost allocation methodology at issue is currently in place and used by the North
19 Carolina Commission. The City of Orangeburg has challenged this cost allocation
20 process before the North Carolina Commission and the North Carolina courts and was
21 unsuccessful in both forums. A rejection of the JDA by this Commission will not alter the
22 North Carolina Commission's use of this cost allocation methodology.

1 Q. IS THERE ANOTHER FORUM WHERE ORANGEBURG CAN SEEK RELIEF
2 REGARDING THIS MATTER?

3 A. Yes. The Federal Energy Regulatory Commission ("FERC") has primary jurisdiction
4 over the sale of electricity in the wholesale market. Orangeburg has petitioned the FERC
5 for relief regarding this issue. It is also participating in the FERC proceeding regarding
6 the merger of Duke Energy Corporation ("Duke") and Progress Energy, Inc. ("Progress")

7 Q. WHAT ARE YOUR CONCERNS WITH THE TESTIMONY OF WITNESS
8 HAHN?

9 A. Witness Hahn raises numerous putative problems that may result from the merger of
10 Progress and Duke. These problems include concerns over the impact of the merger on
11 the purchase of renewable energy by Progress Energy Carolinas, Inc. ("PEC") and Duke
12 Energy Carolinas, LLC ("DEC"), the establishment of retail rates after DEC and PEC
13 merge, the potential for the increased use of fossil generation, and the amount of, and
14 proper treatment of, non-fuel synergies and savings resulting from the merger. The
15 concerns raised by Hahn ignore the fact that the Commission possesses the regulatory
16 authority and duty to address each of these issues, if and when they arise.

17 The Commission regulates and establishes PEC's and DEC's retail rates through
18 general rate cases, fuel cost recovery proceedings and demand-side management/energy
19 efficiency cost recovery proceedings. Any and all rate making issues resulting from the
20 merger of Progress and Duke, and ultimately PEC and DEC, including the amount of
21 merger savings and the appropriate resulting rate adjustments, can and will be addressed
22 in those proceedings. Regarding the purchase of, or generation of, renewable energy, the
23 Commission requires PEC and DEC to file annual resource plans in which the utilities

1 describe their proposed resource mix for the following 15 years. In these proceedings the
2 Commission can consider and evaluate PEC's and DEC's proposed purchase of,
3 generation of, and use of renewable energy.

4 Finally, regarding the possibility of increased fossil generation emissions, PEC
5 and DEC will only increase their use of fossil generation if it can be done in full
6 compliance with all state and federal environmental requirements and it is cost effective
7 to do so. This is entirely consistent with, if not required by, PEC's and DEC's obligation
8 to provide electricity to their customers at the lowest reasonable cost.

9 **Q. DO YOU HAVE ANY ADDITIONAL CONCERNS REGARDING MR. HAHN'S**
10 **TESTIMONY?**

11 **A.** Yes. Mr. Hahn suggests that the Commission consider job losses in rendering its
12 decision. This concern is misplaced for several reasons. First, as mentioned earlier, PEC
13 and DEC have an obligation to ensure all of their costs are reasonable and prudent. If as
14 the result of the merger, PEC and DEC can reduce their workforces and still provide safe
15 and reliable service, they must do so. Second, to mitigate the job loss impact, we will take
16 advantage of current vacancies, natural attrition and retirements. We will manage the
17 integration process in a thoughtful, rational way that treats our employees fairly. This is
18 particularly important as we continue to recover from the economic downturn. To that
19 end, we are offering a voluntary severance opportunity to a substantial number of
20 employees. In addition, in the Settlement Agreement we entered into with the South
21 Carolina Office of Regulatory Staff in connection with our North Carolina merger
22 proceeding, we agreed to provide \$3.75 million for purposes such as retraining workers
23 and for low income energy assistance.

1 Q. DO YOU HAVE ANY FURTHER COMMENTS REGARDING MR. HAHN'S
2 TESTIMONY?

3 A. Yes. One of the most important benefits of the merger is the creation of a larger,
4 financially stronger and more diversified company that will be capable of cost effectively
5 constructing the infrastructure necessary to meet the electricity needs of PEC's and
6 DEC's customers. Mr. Hahn does not appear to dispute this benefit. This larger,
7 financially stronger company will be better positioned to invest in renewable generation,
8 provide energy efficiency programs, procure goods and services on favorable terms given
9 its increased purchasing power, and achieve both fuel and non-fuel savings that will
10 cause rates for their customers to be lower than would otherwise be the case.

11 Q. DO PEC AND DEC OPPOSE THE OFFICE OF REGULATORY STAFF
12 WITNESS FALK'S RECOMMENDATION THAT THE COMMISSION
13 APPROVE THE JDA FOR A ONE YEAR TRIAL PERIOD?

14 A. No. We believe such a trial period will provide PEC and DEC the opportunity to prove
15 the benefit of the JDA to their South Carolina customers.

16 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

17 A. Yes it does.

STATE OF SOUTH CAROLINA
PUBLIC SERVICE COMMISSION
COLUMBIA

DOCKET NO. 2011-158-E

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of

Application of Duke Energy Corporation and)
Progress Energy, Inc. on Behalf of Their)
Electrical Utility Subsidiaries, Duke Energy)
Carolinas, LLC and Progress Energy Carolinas,)
Inc. to Engage in a Business Combination)
Transaction)

**REBUTTAL TESTIMONY OF
LYNN J. GOOD**

1 **Q. PLEASE STATE YOUR FULL NAME, BUSINESS ADDRESS, AND POSITION**
2 **WITH DUKE ENERGY CORPORATION.**

3 **A. My name is Lynn J. Good, Chief Financial Officer of Duke Energy Corporation My**
4 **business address is 550 South Tryon Street, Charlotte, North Carolina 28202.**

5 **Q. ARE YOU THE SAME LYNN GOOD WHO PREFILED DIRECT TESTIMONY**
6 **IN THIS PROCEEDING?**

7 **A. Yes. I submitted direct testimony and exhibits in this proceeding on September 14, 2011.**

8 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

9 **A. The purpose of my rebuttal testimony is to explain why the Commission should not adopt**
10 **the “ring-fencing” requirements proposed by witness Richard S. Hahn, on behalf of**
11 **Environmental Defense Fund, the South Carolina Coastal Conservation League, and**
12 **Southern Alliance for Clean Energy, as a condition of approval of the Joint Dispatch**
13 **Agreement (“JDA”).**

1 **Q. HAVE PROGRESS ENERGY CAROLINAS, INC. ("PEC") AND DUKE ENERGY**
2 **CAROLINAS, LLC ("DEC") AGREED TO REGULATORY CONDITIONS**
3 **WITH THE SOUTH CAROLINA OFFICE OF REGULATORY STAFF ("ORS")?**

4 A. Yes. As part of their settlement of the North Carolina merger case with the South
5 Carolina ORS ("ORS Settlement Agreement"), DEC and PEC have agreed with ORS on
6 a set of regulatory conditions. Those regulatory conditions are similar to regulatory
7 conditions that DEC and PEC also agreed to with the North Carolina Public Staff
8 ("Public Staff") as part of their settlement of the North Carolina merger case. Generally
9 speaking, the regulatory conditions agreed to with the ORS ("ORS Conditions") are in
10 line with the regulatory conditions agreed to with the Public Staff ("Public Staff
11 Conditions"). Moreover, the ORS Settlement Agreement contains a "Most Favored
12 Nations" provision that stipulates that DEC's and PEC's respective South Carolina retail
13 customers will receive the jurisdictional equivalent benefits (including regulatory
14 conditions) provided to North Carolina retail customers. Thus, our commitments to the
15 Public Staff on the topic of "ring fencing" are equally applicable in South Carolina. For
16 that reason, I refer often to the Public Staff Conditions in addressing Mr. Hahn's claims.

17 **Q. PLEASE SUMMARIZE YOUR CONCLUSIONS REGARDING THE**
18 **ADDITIONAL "RING-FENCING" CONDITIONS PROPOSED BY MR. HAHN.**

19 A. Mr. Hahn's proposals should not be adopted by the Commission. The concerns that Mr.
20 Hahn has voiced in his rationale are sufficiently addressed by the ORS Conditions and
21 the Public Staff Conditions. Collectively, both sets of conditions contain numerous
22 provisions related to affiliate transactions, corporate governance, and ring-fencing that
23 will provide sufficient protection for DEC, PEC and their respective customers. To

1 impose additional conditions would be burdensome to the companies without adding any
2 material incremental benefit or protection to South Carolina customers.

3 **Q. WHAT IS THE PURPOSE OF THE RING FENCING PROVISIONS**
4 **CONTAINED IN THE ORS AND PUBLIC STAFF CONDITIONS?**

5 A. The "ring-fencing" provisions included in the ORS and Public Staff Conditions are
6 designed to protect DEC, PEC, and their respective customers against adverse
7 consequences from the actions of their affiliates, which is the stated intent of Mr. Hahn's
8 ring-fencing proposals. In particular, Section VIII of the Public Staff Conditions (which
9 is captioned "Corporate Governance/Ring Fencing") and ORS Section VI (which is
10 captioned "Corporate Governance") are intended to ensure the continued viability of
11 DEC and PEC and to insulate and protect DEC, PEC, and their retail customers from the
12 business and financial risks of all of their affiliates including the protection of utility
13 assets from liabilities of affiliates.

14 **Q. IN HIS TESTIMONY, MR. HAHN STATES THAT THE CREDIT RATING**
15 **AGENCIES RECOMMEND RING-FENCING PROVISIONS TO SHIELD**
16 **BONDHOLDERS FROM DOWNSIDE RISK OF ACTIONS TAKEN BY AN**
17 **AFFILIATE¹. HAVE THE RATING AGENCIES TAKEN A POSITION THAT**
18 **EITHER DEC OR PEC SHOULD HAVE ADDITIONAL RING-FENCING**
19 **MEASURES?**

20 A. No, the rating agencies have not stated a position that either PEC or DEC should be
21 further insulated from the actions of affiliates above and beyond the protective measures
22 that are already in place. Fitch Ratings ("Fitch"), Standard & Poor's ("S&P"), and
23 Moody's Investors Service ("Moody's") each reviewed the merger transaction and, on

¹ Hahn testimony, page 51, lines 11 – 15.

1 that basis, affirmed the ratings of Progress Energy, Inc. ("Progress Energy") and its
2 subsidiaries on January 10, 2011. In its announcement, S&P placed the ratings of
3 Progress Energy, PEC and Progress Energy Florida ("PEF") on 'CreditWatch with
4 Positive Implications' indicating a likely upgrade for those entities to the level of Duke
5 Energy Corporation's ("Duke Energy") current Corporate Credit Rating of A-. The
6 credit ratings of Duke Energy and its subsidiaries were also affirmed by S&P and
7 Moody's on the same date.

8 **Q. ON PAGE 60 OF HIS TESTIMONY (LINES 3 & 4), MR. HAHN STATES THAT**
9 **THE CURRENT AND PROPOSED REGULATORY CONDITIONS INCLUDE**
10 **NO RESTRICTION ON DIVIDENDS PAID FROM PEC TO THE PARENT**
11 **COMPANY. DO YOU AGREE WITH THIS STATEMENT?**

12 **A.** No, I do not agree. Public Staff Condition 8.2 addresses distributions from DEC and
13 PEC to Duke Energy and expressly applies to both PEC and DEC. In this condition, the
14 parties agree that:

15 "DEC and PEC shall limit cumulative distributions paid to Duke Energy
16 subsequent to the Merger to (i) the amount of Retained Earnings on the day prior
17 to the closure of the Merger, plus (ii) any future earnings recorded by DEC and
18 PEC subsequent to the Merger."

19 **Q. SHOULD THE COMMISSION ADOPT MR. HAHN'S RECOMMENDATION**
20 **THAT ANNUAL DIVIDENDS BY PEC AND DEC TO DUKE SHOULD BE**
21 **CAPPED AT THE LEVEL OF ANNUAL NET INCOME, UNLESS**
22 **SPECIFICALLY APPROVED BY THE COMMISSION?**

23 **A.** No. Mr. Hahn's proposal that pre-merger retained earnings be excluded from distribution
24 consideration does not support Duke's long-term dividend policy, which is a key
25 component of the shareholder value proposition, and would be an unusual condition

1 given none of the precedents he cites in Exhibit RSH-5 to his direct testimony appear to
2 involve any cases where annual dividends were capped at the level of annual net income.
3 The Duke common shareholder dividend policy targets a **65-70% payout of adjusted**
4 **diluted earnings per share, and the operating subsidiaries are expected to mirror this**
5 **policy over time. In any given year, however, the operating subsidiaries may vary the**
6 **level of dividend payments based upon its capital needs and as needed to properly**
7 **maintain its desired capital structure.**

8 As mentioned above, Public Staff Condition 8.2 limits cumulative distributions
9 paid to Duke Energy after the merger to (1) the amount of retained earnings on the day
10 prior to closing of the merger, plus (2) any future earnings of DEC and PEC after the
11 merger.

12 ORS Condition V.7 requires DEC and PEC to maintain an investment grade debt
13 rating on all of their rated debt issuances. Public Staff Condition 8.1 contains the same
14 requirement. Importantly, the credit rating agencies require a minimum equity component
15 of the capital structure in order to maintain such ratings. DEC and PEC would not have
16 the ability to pay excessive dividends to the parent while still complying with these
17 conditions.

18 The Commission also has the authority to approve the capital structure of DEC
19 and PEC and has visibility to the capital structure over time via periodic reporting².

20 These regulatory conditions as well as Commission authority to approve the
21 capital structures provides sufficient protection for the utilities and their customers from
22 the concerns raised by Mr. Hahn.

² Both DEC and PEC provide a quarterly report to the Commission that shows the current capital structure.

1 **Q. SHOULD THE COMMISSION ADOPT MR. HAHN'S RECOMMENDATION**
2 **THAT DEC AND PEC BE REQUIRED TO MAINTAIN A MINIMUM EQUITY**
3 **RATIO AT 40% OR HIGHER?**

4 **A. No. The ORS and Public Staff conditions obviate any need for the Commission to specify**
5 **a minimum equity ratio. As previously noted, ORS Condition V.7 and Public Staff**
6 **Condition 8.1 require DEC and PEC to maintain an investment grade debt rating on all of**
7 **their rated debt issuances. ORS Condition V.7, for example, further provides that DEC**
8 **or PEC shall file written notice with the Commission and ORS, if DEC's or PEC's debt**
9 **rating falls to the lowest level still considered to be investment grade. In such event,**
10 **within 5 days of the change, DEC or PEC, as applicable, must provide the Commission**
11 **and the ORS with an explanation as to why the change occurred. Also, Public Staff**
12 **Condition 8.3 requires Duke to ensure that the capital structures of both DEC and PEC**
13 **meet any restrictions on the ratio of debt to total capitalization on a consolidated basis to**
14 **a maximum percentage of debt contained in any of Duke's external debt or credit**
15 **arrangements.**

16 **Q. SHOULD THE COMMISSION REQUIRE DEC AND PEC TO APPOINT AN**
17 **INDEPENDENT MEMBER OF THEIR BOARD OF DIRECTORS AS**
18 **RECOMMENDED BY MR. HAHN?**

19 **A. No. Such an appointment is unnecessary. Mr. Hahn's stated rationale is that this will**
20 **provide additional protection for rate payers in the event Duke or another affiliate faces**
21 **bankruptcy. ORS Condition VI.4 addresses concerns for bankruptcy of an affiliate. It**
22 **provides that DEC or PEC shall notify the Commission (in advance, if possible) if an**
23 **affiliate experiences a default on an obligation that is material to Duke or files for**

1 bankruptcy and such bankruptcy is material to Duke, DEC or PEC. This notice
2 requirement will allow the Commission to take whatever action may be appropriate to
3 protect South Carolina retail customers from the risks associated with the bankruptcy of
4 Duke or an affiliate. A similar requirement is contained in Public Staff Condition 8.10.

5 **Q. MR. HAHN ALSO EXPRESSES CONCERN WITH DEC AND PEC'S**
6 **PARTICIPATION IN A MONEY POOL ARRANGEMENT. PLEASE**
7 **COMMENT ON HIS CONCERNS.**

8 **A.** Section V.9 of the ORS Conditions addresses DEC's and PEC's incurrence of debt.
9 More specifically, the Public Staff Conditions expressly address money pool
10 arrangements in which DEC and PEC may participate. Specifically, Public Staff
11 Condition 7.7 provides that DEC and PEC may participate in the Duke utility money pool
12 provided:

- 13 • The parties of such arrangement are limited to those participating in Duke
14 Energy's existing money pool arrangement plus PEC, PEF (a regulated
15 utility), Progress Energy, and Progress Energy Service Company.
- 16 • That if, after December 31, 2011, Duke Energy Ohio's generation assets are
17 no longer dedicated to serving retail load in its service territory and subject to
18 an ESP, then DEC and PEC must seek further approval from the Commission
19 to continue to participate in the Utility Money Pool, and
- 20 • No loans through the [Utility Money Pool] will be made to, and no
21 borrowings through the [Utility Money Pool] will be made by Duke Energy,
22 Progress Energy, and Cinergy Corp.

23 In short, this Condition 7.7 provides that the current arrangement, updated to include the
24 Progress Energy entities, will continue to be a Utility Money Pool.

25 Public Staff Condition 8.4 allows DEC and PEC to participate in the money pool
26 and any other authorized joint debt or credit arrangement "only to the extent such
27 participation is beneficial to the respective [retail customers] and does not negatively
28 affect DEC's or PEC's ability to continue to provide adequate and reliable service at just

1 and reasonable rates. Mr. Hahn's concerns are sufficiently addressed by these regulatory
2 conditions.

3 **Q. MS. GOOD, HOW DO YOU RESPOND TO THE RECOMMENDATION THAT**
4 **DUKE SHOULD ESTABLISH A SPECIAL PURPOSE ENTITY BETWEEN DEC**
5 **AND PEC AND THE PARENT HOLDING COMPANY?**

6 **A.** Mr. Hahn's recommendation is unnecessary. As he acknowledges himself, PEC will be a
7 wholly owned subsidiary of Progress Energy Inc., which will be a subsidiary of Duke
8 Energy Corp. after the merger. Further, given the regulatory conditions described above
9 and numerous others contained in the ORS and Public Staff Conditions intended to
10 protect DEC, PEC and their respective customers from the adverse impacts of the actions
11 of their affiliates, transfer of PEC and DEC into a special purpose entity is not warranted.
12 These protective measures include conditions that require PEC and DEC to operate
13 completely separately from their parent and affiliates, keep separate books and
14 accounting, and allow the Commission and ORS advance notice of any activity that
15 might harm PEC or DEC.

16 **Q. DO YOU HAVE ANY OTHER COMMENTS REGARDING MR. HAHN'S PRE-**
17 **FILED TESTIMONY?**

18 **A.** Mr. Hahn states that Fitch Ratings downgraded Progress Energy Florida ("PEF") on July
19 1, 2011 and that further downgrades could impact PEF's affiliates. In fact, Fitch affirmed
20 the ratings of PEF and revised its outlook to negative given the uncertainty of cost
21 recovery for the Crystal River nuclear plant outage. At the same time, Fitch affirmed the
22 ratings of PEC and Progress Energy while maintaining a stable outlook on their ratings.

1 Mr. Hahn's speculation on the impact of the Crystal River nuclear plant outage on PEC's
2 credit ratings is not supported by Fitch's recent actions.

3 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

4 **A. Yes.**

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Application of Duke Energy Corporation and
Progress Energy, Inc. on Behalf of Their Electrical
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and Progress Energy Carolinas, Inc. to Engage in a
Business Combination Transaction

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**REBUTTAL TESTIMONY OF
JOSEPH P. KALT**

Q. PLEASE STATE YOUR NAME, ADDRESS, AND POSITION.

A. My name is Joseph P. Kalt and my business address is 4280 North Campbell Avenue, Suite 200, Tucson, Arizona 85718. I am a Professor at Harvard University, a visiting Professor at the University of Arizona, and a senior economist at Compass Lexecon.

Q. ARE YOU THE SAME JOSEPH P. KALT THAT PREVIOUSLY SUBMITTED TESTIMONY IN THIS PROCEEDING?

A. Yes. I submitted direct testimony and exhibits in this proceeding on September 14, 2011.

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A. The purpose of my rebuttal testimony is to address certain concerns raised by the Office of Regulatory Staff witness Jonathan Falk and Environmental Defense Fund, Southern Alliance for Clean Energy and South Carolina Coastal Conservation League witness Hahn. In particular I will respond to one or both of these parties' concerns that: 1) Progress Energy Carolinas, Inc. ("PEC") and Duke Energy Carolinas, LLC ("DEC") could realistically implement some form of joint dispatch similar to the one I modeled under the JDA, but do so without a merger; 2) PEC and DEC could achieve more

1 generation-related savings if they collapsed the current three Balancing Authority Areas
2 ("BAAs") into one BAA; and 3) joint dispatch will result in greater emissions from coal-
3 fired generation.

4 **Q. TURNING TO THE FIRST ISSUE, CAN PEC AND DEC ACHIEVE THE**
5 **SAVINGS THAT THE DISPATCH UNDER THE JDA WILL PRODUCE**
6 **WITHOUT THE MERGER- E.G., BY BILATERAL CONTRACTING?**

7 **A.** No, as stated in my direct testimony, absent the merger, DEC and PEC would not be able
8 to achieve the generation dispatch related savings by entering into a contract between
9 non-affiliated parties. The core reason for this lies in real-time operational constraints,
10 transactions costs, and opportunities for savings. The joint unit commitment and dispatch
11 process that will take place under the JDA represents a set of complex, interacting, day-
12 to-day, real-time moment to moment decisions. It is not plausible that two non-affiliated
13 parties could achieve the level of operational integration necessary to make these types of
14 real-time decisions without effectively integrating control of their generation fleets
15 through a merger and bringing requisite decisions under single common control, as
16 opposed to panoply of bilateral transactions. Importantly, were the two companies to try
17 to integrate their operations so as to minimize joint system costs without merging, the
18 two companies would have to share in real-time a wealth of complex, rapidly evolving,
19 highly commercially sensitive and confidential data that is not publicly available.¹ Thus,
20 absent a merger, such joint dispatch is not feasible from an operational and commercial
21 perspective.

¹ I also note, based on my experience teaching, researching and consulting on antitrust matters, that such a sharing of information via bilateral contract between non-affiliates would likely raise antitrust concerns.

1 **Q. IS MR. HAHN CORRECT THAT THE INFORMATION PEC AND DEC NEED**
2 **TO ACHIEVE THE RESULTS OF THE JDA IS PUBLICLY AVAILABLE?**

3 A. Mr. Hahn is not accurate. Most data that are publicly available are reported well after the
4 fact. This is the case, for example, with the FERC Form I data that Mr. Hahn references.
5 Indeed, those data are only made available on an annual basis, sometime after the fact for
6 the preceding calendar year. Such data are essentially useless for purposes of running
7 real-time, minute by minute integration coordination of the two companies' systems.
8 Other generation data are made available on a monthly or quarterly basis. But *all* of
9 these data are after the fact, and are typically aggregated across some period of time.
10 Thus, it is not available for real-time, incremental decision making. Yet utilities must use
11 detailed real-time and projected load, resource and operation data – from current
12 conditions at particular generating units, current incremental (i.e. not average or
13 historical) heat rates, as well as current marginal fuel costs based on specific current price
14 terms, and conditions in fuel and power supply contracts – in the unit commitment and
15 dispatch process. The data required for that process are not available to the public.

16 **Q. COULD PEC AND DEC FORM AN RTO OR A "TIGHT" POWER POOL**
17 **WITHOUT A MERGER AND ACHIEVE THE SAME RESULTS AS THE JDA?**

18 A. In order to have a power pool or other third party implement the same type of integrated
19 unit commitment and dispatch process as will occur under JDA, PEC and DEC would
20 need to transfer functional and operational control of their assets to a third party – as
21 would occur in forming an RTO or ISO. It is my understanding that such a transfer
22 would require separate and specific Commission approval as well as other regulatory
23 approvals. It is also quite possible that approaches such as tight power pools and joining

1 an RTO could engender additional expenses or have other costs to PEC and DEC that
2 would be offsets to the joint dispatch savings. I understand the Commission also is well
3 aware of the jurisdictional issues that would emerge in forming an RTO/ISO. In fact, the
4 Regulatory Conditions agreed to by PEC, DEC and the Office of Regulatory Staff as part
5 of their settlement of the North Carolina Utilities Commission merger proceeding
6 contains the following provision in section III.10:

7 DEC, PEC, Duke Energy, and other Affiliates shall take all necessary actions to
8 prevent the generating facilities owned or controlled by DEC and/or PEC from
9 being considered by the FERC to be (a) a power pool, (b) sufficiently integrated
10 to be one integrated system, or (c) otherwise fully subject to the FERC's
11 jurisdiction, as the result of DEC's and PEC's participation in the JDA or any
12 successor document.

13 The effect of this condition is to prevent the parties from taking any action pursuant to the
14 JDA that could be construed as creating a tight power pool and thus transferring
15 jurisdiction of the state commissions to the FERC.

16 **Q. TURNING NOW TO THE SECOND ISSUE, DID COMPASS LEXECON MODEL**
17 **ONE BAA FOR THE JDA SAVINGS, AS MR. HAHN SUGGESTS?**

18 **A.** No. The modeling Compass Lexecon undertook mapped the transmission and generation
19 facilities of the DEC and PEC systems. Production cost simulation models, like the one
20 Compass Lexecon used, do not take into account legal or physical boundaries. Rather the
21 inputs are based on, among other things, physical transmission facilities, as well as the
22 transfer capabilities and constraints that occur in a security-constrained economic
23 dispatch. This type of modeling is not based on any BAAs – whether one, two or three
24 (except to the extent that, when the pre-merger analysis is completed, assets are located
25 consistent with the existing BAAs' physical boundaries). The fact that our post-merger
26 results depict combined DEC/PEC operations and savings is not the same thing as saying

1 one BAA was modeled. The modeling results simply have nothing to do with the
2 implementation of a single BAA.

3 Q. PUTTING ASIDE MR. HAHN'S MISUNDERSTANDING OF THE
4 UNDERLYING MODELING INPUTS AND STRUCTURE, DOES HIS
5 ASSERTION THAT ONE BAA WOULD PRODUCE EVEN GREATER COSTS
6 SAVINGS UNDER THE JDA HAVE ANY MERIT?

7 A. No. As noted, since the modeling we performed does not depend upon the number of
8 BAAs at issue, Mr. Hahn's assertion represents unfounded speculation. Mr. Hahn
9 appears to interpret the language of the JDA related to maintaining multiple BAAs to
10 mean that each utility or BAA "first commits the generation needed to be on-line to meet
11 operating requirements, and then dispatches the units...." He hypothesizes that such
12 utility by utility "commitment" under the JDA will diminish the potential savings
13 associated with joint dispatch.

14 As described in the testimony of Mr. Weintraub, however, the joint dispatcher
15 will not distinguish between the utilities' resources in determining how best to serve the
16 combined loads of PEC and DEC. Thus, Mr. Hahn's analysis is not an analysis of the
17 JDA at issue. Specifically, under the JDA as proposed with multiple BAAs, the benefits
18 of joint dispatch will be accomplished by *joint* unit commitment and *joint* dispatch of the
19 *integrated* set of generation resources. There is no reason, or expectation, unit
20 commitment will be handled any differently than dispatch. The results of Mr. Hahn's
21 hypothetical analyses in his figures, in which units are committed separately by each
22 BAA and leave opportunities for operating more efficient units stranded, is wholly

1 inconsistent with the JDA that has been proposed. There is no basis for Mr. Hahn's
2 conclusion.

3 **Q. MR. HAHN CLAIMS THAT HE IS NOT AWARE OF ANY IMPEDIMENTS OR**
4 **DISADVANTAGES TO CREATING ONE BAA. DO YOU AGREE?**

5 **A.** No. My understanding is that collapsing three BAAs into one is a complex task that
6 could not be readily accomplished. Doing so would certainly take more time to achieve
7 than when this merger is scheduled to close and could therefore delay merger
8 implementation. An example of one complexity in collapsing to one BAA is the
9 treatment of existing load obligations given that PEC and DEC will not merge into one
10 utility for quite some time. It is also my understanding that Mr. Hahn's suggested
11 approach might well require FERC and NERC approvals, as well as this Commission's
12 approval. There is no reason to delay the realization of the savings consumers will
13 receive from joint dispatch and the commitments made by PEC and DEC in the hopes of
14 seeing speculative and hypothetically greater benefits resulting from a single BAA.

15 **Q. FINALLY, WILL IMPLEMENTING THE JDA INCREASE THE USE OF COAL**
16 **GENERATION AND THEREFORE EMISSIONS?**

17 **A.** Not necessarily. The modeling estimates are *estimates and projections*. Mr. Hahn states
18 in his testimony that the Compass Lexecon analysis shows an increase in coal generation
19 as a result of the joint dispatch. While it is true that the modeling results show such a
20 projection, that potential increase is a remarkably *de minimus* one percent (9.3 million
21 MWH out of 893.0 million MWH of total generation) over the 5-year modeling period.
22 Moreover, our modeling shows a shift from older, less-efficient to newer, more modern
23 coal-fired units. In addition, while significant savings will be achieved by the joint

1 dispatch, the composition and nature of those savings are dependent on a multitude of
2 factors including, for example, actual composition and characteristics of supply
3 resources, relative fuel prices, and emission control regimes. Changes in these and other
4 factors will have a significant impact on actual coal generation. They will not, however,
5 change the fact that integrated operation of a larger joint system necessarily creates cost
6 savings relative to non-integrated, separate operation.

7 Equally important, the joint dispatch savings modeled assumed PEC and DEC
8 will continue to comply with all applicable state and federal emission control regulations.
9 They cannot simply emit a greater amount of particulates than they are permitted.
10 Therefore, that the model shows a *de minimus* increase in coal generation simply does not
11 translate into a greater amount of overall emissions by the combined companies under the
12 JDA. In fact, having a broader base and variety of generation assets available under the
13 JDA will enhance PEC's and DEC's ability to serve their loads in an economical and
14 efficient manner while complying with whatever emissions control regime is in place in
15 the future.

16 Finally, in important ways, Mr. Hahn's entreaties to the effect that the
17 Commission use JDA approval policy to implement environmental policy actually
18 amounts to a complaint that the panoply of federal and state environmental regulations to
19 which PEC and DEC and other generators are subject are not stringent enough for his
20 tastes. Were it the case that we did not have the layers of state and federal environmental
21 regulation that we actually do, we might well look toward merger policy to help what
22 would otherwise be a world of uncontrolled emissions. But we *do* have extensive
23 regulatory tools for dealing with environmental issues. Sound principles of public policy

1 tell us that we should use environmental policy to address environmental concerns, not
2 joint dispatch approval policy. The array of regulatory policies we have, from the pricing
3 of NOx emissions to particulate standards and new scrubber requirements, are designed
4 to represent our collective view as to the constraints that are needed so that businesses
5 can go about the business of operating efficiently while adjusting to state and federal
6 environmental standards and regulations. Those constraints will be no less strict for PEC
7 and DEC under the JDA. There is no reason to believe that joint dispatch will do
8 anything other than meet the applicable environmental standards embodied in our public
9 policies. It will do so while producing electricity for South Carolina at lower cost than
10 would be the case without the JDA.

11 **Q. Does this conclude your rebuttal testimony?**

12 **A. Yes it does.**

STATE OF SOUTH CAROLINA
PUBLIC SERVICE COMMISSION
COLUMBIA

DOCKET NO. 2011-158-E

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of)) Application of Duke Energy Corporation and) Progress Energy, Inc. on Behalf of Their) Electrical Utility Subsidiaries, Duke Energy) Carolinas, LLC and Progress Energy Carolinas,) Inc. to Engage in a Business Combination) Transaction)	REBUTTAL TESTIMONY OF ALEXANDER J. WEINTRAUB
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Q. PLEASE STATE YOUR NAME, ADDRESS AND POSITION.

A. My name is Alexander (Sasha) J. Weintraub and my business address is 100 East Davie Street, Raleigh, North Carolina. My position is Vice President-Fuels and Power Optimization for Progress Energy Carolinas, Inc. ("PEC" or "Company").

Q. ARE YOU THE SAME SASHA WEINTRAUB THAT PREVIOUSLY SUBMITTED TESTIMONY IN THIS PROCEEDING?

A. Yes. I submitted direct testimony and exhibits in this proceeding on September 14, 2011.

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A. The purpose of my rebuttal testimony is to address the Office of Regulatory Staff witness Jonathan Falk's concerns regarding the allocation of savings resulting from the joint dispatch of Progress Energy Carolinas, Inc. ("PEC") and Duke Energy Carolinas, LLC ("DEC") resources pursuant to the Joint Dispatch Agreement ("JDA"). I will also address Mr. Falk's concerns regarding the allocation of capital costs associated with new supply side resources constructed or procured by PEC or DEC that are used to serve both PEC and DEC. In addition, I will rebut the Environmental Defense Fund's, the South

1 Carolina Coastal Conservation League's and the Southern Alliance for Clean Energy's
2 witness Richard Hahn's allegations that PEC and DEC can achieve fuel blending savings
3 without the merger and that the JDA is inconsistent with the way Compass Lexecon
4 modeled the JDA savings.

5 **Q. HOW WILL THE JOINT DISPATCH SAVINGS BE ALLOCATED BETWEEN**
6 **PEC AND DEC AND THEN BETWEEN THE NORTH CAROLINA, SOUTH**
7 **CAROLINA AND WHOLESALE JURISDICTIONS?**

8 **A.** I will start with a description of how the savings will be shared between DEC and PEC.
9 As explained in the JDA, the calculated savings will be allocated each hour based upon
10 megawatt hours generated. Thus, for example, if the savings in hour 1 are \$100 and DEC
11 generated 60% of the megawatts hours in that hour and PEC generated 40%, DEC would
12 receive \$60 and PEC would receive \$40.

13 Turning to the allocation of these savings between the North Carolina retail,
14 South Carolina retail, and wholesale jurisdictions, PEC and DEC will use the same
15 methodology that has been used for many years to allocate fuel costs between these
16 jurisdictions. That methodology is based on megawatt hour sales. A simple example may
17 be helpful. Assume PEC's total fuel costs, less its share of fuel cost savings, is \$1000.
18 Also assume that PEC sold a total of 100 megawatt hours in that year, with 65 megawatts
19 hours sold to North Carolina retail, 20 megawatt hours sold to South Carolina retail and
20 15 megawatt hours sold to wholesale. In this example, North Carolina retail would be
21 allocated \$650 of fuel costs, South Carolina retail would be allocated \$200 and wholesale
22 \$150.

1 These allocation methodologies are fair and equitable to PEC and DEC and their
2 customers and do not result in cross-subsidization of either company or customer bodies.

3 **Q. PLEASE ADDRESS MR. FALK'S CONCERNS REGARDING THE PROPER**
4 **ALLOCATION OF THE CAPITAL COSTS ASSOCIATED WITH NEW**
5 **RESOURCES CONSTRUCTED BY PEC OR DEC THAT ARE USED TO SERVE**
6 **THE LOAD OF BOTH UTILITIES AS A RESULT OF THE JDA.**

7 **A.** Mr. Falk seems to be concerned that upon completion of the merger, PEC and DEC will
8 more closely coordinate their resource planning additions, such that new resources will
9 be justified based upon the combined needs of PEC and DEC. If this occurs, he suggests
10 the Commission may be confronted with difficult questions regarding prudence, "used
11 and usefulness" and cost allocation/recovery.

12 The issue raised by Mr. Falk is not as troublesome as he suggests. In fact, the
13 Commission has been dealing with this issue for decades. In every certificate of public
14 convenience and necessity proceeding the Commission must determine whether the
15 resource in question is the most cost effective resource to meet the applicant's projected
16 needs of its retail and wholesale customers. The needs of both sets of customers are
17 considered in making this determination. In every rate case the Commission must
18 allocate the costs of utility plant between retail and wholesale customers. This allocation
19 is based on cost causation principles.

20 Mr. Falk implicitly recognized that the Commission has experience addressing
21 this issue when he referenced the new nuclear plants being constructed by South Carolina
22 Electric & Gas Company ("SCE&G"). In Commission Docket No. 2008-196-E, the
23 Commission addressed SCE&G's application for a certificate of public convenience and

1 necessity to construct two nuclear units with SCE&G only owning 55% of the new
2 plants. The other 45% will be owned by Santee Cooper. SCE&G demonstrated that the
3 plants were the most cost effective resources to meet its projected needs and by Order
4 No. 2009-104 the Commission granted SCE&G's application.

5 Thus, at the time PEC or DEC apply to the Commission for a certificate of public
6 convenience and necessity to construct a new generating unit the Commission will
7 determine whether the unit is needed to serve just the applicant and its customers (both
8 retail and wholesale) or whether it is needed to serve the customers of both PEC and
9 DEC. In subsequent rate cases the Commission will allow each utility to place into its
10 base rates the appropriate amount of costs associated with its proportionate share of the
11 new facility.

12 **Q. DO YOU AGREE WITH WITNESS HAHN THAT PEC AND DEC CAN**
13 **ACHIEVE THE BENEFITS OF FUEL BLENDING WITHOUT A MERGER?**

14 **A.** While it is possible that DEC may have at some point in the future implemented fuel
15 blending absent the merger, the merger ensures that DEC will do so much more quickly
16 and efficiently than would otherwise have been the case. PEC has been blending fuel
17 since 2006. As a result, DEC will benefit from PEC's experience, mistakes and
18 successes, which will allow DEC to immediately adopt best practices as well as select the
19 best technologies and equipment. With this knowledge of lessons learned and best
20 practices, DEC will be able to start the fuel blending process in a much shorter time
21 frame than would otherwise be the case. Moreover, the combined companies will be
22 able to achieve greater economies of scale and scope in their fuel blending operations.
23 To achieve these efficiencies and savings, the companies would need to share

1 confidential commercial information that would not be possible without a merger due to
2 the nature of such information.

3 **Q. IS THE JDA INCONSISTENT WITH THE JOINT DISPATCH ANALYSIS**
4 **CONDUCTED BY COMPASS LEXECON?**

5 A. No. Witness Hahn appears to believe that having three separate BAAs prohibits PEC and
6 DEC from conducting joint dispatch as a combined system with combined generation and
7 load as modeled by Compass Lexecon. This belief is incorrect. DEC and PEC will be
8 able to conduct joint dispatch as a combined system regardless of whether there are three
9 BAAs or one BAA. The Applicants will conduct one unit commitment plan and a single
10 security constrained economic dispatch to serve the combined native loads of both DEC
11 and PEC.

12 **Q. DOES THAT COMPLETE YOUR REBUTTAL TESTIMONY?**

13 A. Yes.